IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.945 OF 2006

Laxmitant M. Sharma & Ors. .. Petitioners

Versus

The State of Maharashtra & Ors. .. Respondents

Mr.K.K.Singhvi with S.P.Kanuga i/b. Sapna Nath for petitioners

Mr.D.A.Patne, A.G.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 20th February 2006.

P.C.

. Heard Mr.Singhvi, learned Senior Counsel for petitioner and Mr.Patil, learned A.G.P. for

respondent Nos. 1 to 3. Mr.Singhvi states that respondent states that respondent No.4 is co-owner of the property in question and, therefore, it is not necessary to serve him.

2. This petition under Article 227 of the Constitution of India challenges the order passed by the President, Maharashtra Slum Clearance Appellate Tribunal, Mumbai on 17th December 2005 rejecting appeals preferred by petitioners being Appeal Nos. 26, 27 and 41 of 2005, directed against the declaration of the property in question as slum. This declaration is dated 16th June 2005.

3. The main grievance raised by Mr.Singhvi is that the learned President has not given reasonable and proper opportunity of hearing to the petitioners to substantiate the contention that the declaration of competent authority is vitiated by non compliance with the provisions of

the Act and Rules. Further, he submits that there contentions raised on merits with regard to basic amenities provided in the structures which are essentially commercial structures have also not been considered. He submits that the learned President has not adverted to all materials and has proceeded on the basis that there is divergence in the pleadings in the appeals. The learned President has also, according to Mr.Singhvi, relied upon some communicaation which was basis of declaration and further materials but copies of which were not supplied to petitioners- original appellants.

4. Mr.Patil, A.G.P. could not dispute the fact that the appeals have been clubbed and disposed of in a manner wherein it appears that contentions in each of them have not been adverted to at all. Similarly, by disposing them of by a common order, the President has erred in rejecting them.

5. In my view, interest of justice would be served by restoring the abovementioned appeals to the file of learned President for disposal afresh on merits and in accordance with law. Hence, following order:-

> The order under challenge is set aside. Appeal are restored to the file of Slum Tribunal for disposal afresh and in accordance with law. Parties would be allowed to produce such materials in support of their contentions and grounds in the memo of appeal as are permissible in law. Learned President to dispose of the appeals on merits, after scrutiny of materials and giving opportunity of hearing to both appellants as well as respondents/ opponents before him, uninfluenced by the order passed by him on 17th December 2005. Learned President

shall also consider the applications made for amendments to the grounds of appeal. Parties shall appear before the President on 1st March 2006. Appeals will be disposed of within six weeks from the date of appearance of parties.

(S.C.DHARMADHIKARI, J)